

EDWARD ZULU AND ZIMCO PROPERTIES LIMITED

SUPREME COURT

LEWANIKA, J.S.

22ND JUNE, AND 4TH AUGUST, 2000

APPEAL NO. 126/99

Flynote

Civil Law - Interlocutory injunction - question of balance of convenience - whether taken into consideration in refusing injunction.

Interlocutory injunction - whether court should delve into main issues.

Headnote

The appellant was employed by the respondent till his summary dismissal on 30th September, 1998. Sometime in April, 1996 and July 1997 the appellant was granted a loan by the respondent totalling K21,380,000.00 to purchase the house in question under the respondents home ownership scheme. Clause 3 of the respondents home ownership scheme provided that once an employee left employment, the loan had to be repaid immediately. Following his dismissal the appellant was told to pay the balance immediately or vacates the house. The appellant's application for an interim injunction to restrain the respondent from evicting him from the house in question was refused. On appeal, it was argued that the court had misdirected itself by delving into in the main issues in the dispute. It was also argued that the court did not consider the balance of convenience between the parties.

Held:

In considering the appellant's application for an injunction the lower court fell into error in that it took into account the merits of the main action between the parties which can only be determined at the trial. The injunction is granted as prayed for pending the determination of the main action.

For the Appellant In person

For the Respondent N. Mutti, of Lukona Chambers

Judgment